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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,493	12/10/2001	Larus Jon Gudmundsson	3535-0114P	7153
2292	7590	04/07/2003	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			BREVARD, MAERENA W	
ART UNIT	PAPER NUMBER			
3727	7			

DATE MAILED: 04/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/936,493	GUDMUNDSSON, LARUS JON
	Examiner Maerena W. Brevard	Art Unit 3727

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3 and 5</u> .	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 6 includes the following informalities: in line 2, "encircle" should be changed to -- encircles--.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2, 4, and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the upper surface" in line 1; claim 4 recites the limitation "the inclination of the seat section" in line 1; and claim 6 recites the limitation "the inner part" in line 1. There is insufficient antecedent basis for these limitations in the claims.

Claim 6, line 2 includes the double recitation of "seat section partly encircling the neck of an adult" as in claim 1.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Reilly.

Reilly discloses a device for carrying a child upon the shoulder of an adult (10)

comprising:

- A seat section (26) partly encircling the neck of an adult (Figure 1);
- A leg section (16, 18), to the same degree claimed, reaching down over the chest;
- The seat section being a cushion saddle to the degree that the seat section is made of material fabric that is considered cushioned;
- The leg section has stirrups (30, 32) for the child's feet; and
- The leg section length is adjustable (110, 112).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Verina in view of Bush.

Verina discloses a device for carrying a child upon the shoulder of an adult (11) comprising a seat section (14) partly encircling the neck of an adult (Figure 3), a leg section (15) reaching down over the chest, and the seat section being a cushion saddle (inflatable), but does not teach the leg section having stirrups. However, Bush teaches the leg section of the child carrier having stirrups (21) for the child's feet. It would have been obvious to attach the stirrups of Bush on the child carrier of Verina. Doing so would assist the child in balancing on the adult's shoulders.

Regarding claim 2, the upper surface of the seat section is forwardly inclined with respect to the horizontal plane (figure 4).

Regarding claim 3, the thickness of the seat section is decreasing (at 23) in the direction toward the leg section.

The inclination of the seat section is about 4-10 degrees with respect to the horizontal plane, to the same degree claimed.

Regarding claim 6, the inner part of the seat section of Verina is semi-circular and at least partly encircles the neck of the adult (Figures 1 and 3).

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnson is cited for a child carrier.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maerena W. Brevard whose telephone number is 703/305-0037. The examiner can normally be reached on M-Th; 8:00 AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703/308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9302 for regular communications and 703/872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-0037.

*lens*  
Maerena Brevard  
March 20, 2003

*Lee Young*  
LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700